REMARKS

Claims 1-16 are now in the application.

Claims 1 has been amended for purpose of clarifying that they claims are directed to a product and not to limit its scope. Claim 6 has been amended to render it consistent with the changes to claim 1 and not to limit its scope.

Concerning the rejection of claims 1-16 under 35 USC 112, second paragraph, claim 1 has been amended to clarify that the claims are directed to a product.

Claims 1-16 were rejected under 35 USC 102(b) as being anticipated by or under 35 USC 103(a) as being obvious over Akiba et al. "Ring Transformation Equilibrium (Bond Switch) in the 5-2(-Aminovinyl)isothiazole System via Hypervalent Sulfurane, Synthesis, Structure Development, and Kinetic Study. In particular, compound 9a was referred to in the office action. It was also stated in the office action the compound 9a would inherently possess the property of detecting formaldehyde.

Akiba et al. fail to anticipate and fail to render obvious the present invention. In particular, the claims relate to a product of a tabular base material containing silica gel as well as the 4-amino-4-phenyl-3-ene-2-one and a buffer and not merely the 4-amino-4-phenyl-3-ene-2-one per se suggested by Akiba. Akiba does not suggest the present invention since, among other things, such does not disclose the claimed tabular base material containing silica gel as recited in the claims. Moreover, nothing in Akiba would suggest that the 4-amino-4-phenyl-3-ene-2-one should be incorporated in a structure that is a tabular base material containing silica gel and expect that such product would have the properties and use as disclosed by this invention.

The mere fact that compound 9a might inherently possess the property of detecting formaldehyde, is not sufficient to support a rejection under 35 USC 103(a). Obviousness cannot be predicated on what is not known at the time an invention is made, even if the inherency of a claimed feature is later established. See *In re Rijckaert*, 9 F.2d 1531, 28 USPQ2d 1955 (Fed Cir. 1993).

Akiba et al. fail to anticipate the present invention, since anticipation requires the disclosure, in a prior art reference, of each and every recitation as set forth in the claims. *See Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985), *Orthokinetics,*

Inc. v. Safety Travel Chairs, Inc., 1 USPQ2d 1081 (Fed. Cir. 1986), and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 USPQ2d 1241 (Fed. Cir. 1986).

There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. 102. *See Scripps Clinic and Research Foundation v. Genetech, Inc.*, 18 USPQ2d 1001 (CAFC 1991) and *Studiengesellschaft Kohle GmbH v. Dart Industries*, 220 USPQ 841 (CAFC 1984).

In addition, as stated above, the reliance upon inherency to base an obviousness rejection is not proper. See *In re Rijckaert, supra.*

In view of the above, consideration and allowance are, therefore, respectfully solicited.

In the event that the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

Please charge any necessary fees or credit any overpayment to Deposit Account 22-0185.

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Respectfully submitted,

By _____

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